UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,221	04/22/2004	Kivin Varghese	PA-3041022	3220

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.
2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-14* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-14* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on *22 April 2004* is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All   b) ☐ Some * c) ☐ None of:

  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. _____.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date *4/22/2004*.

4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1.   The drawings 1A and 1B are objected to because the name of the electronic

components are not properly shown. Corrected drawing sheets in compliance with 37

CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the

application. Any amended replacement drawing sheet should include all of the figures

appearing on the immediate prior version of the sheet, even if only one figure is being

amended. The figure or figure number of an amended drawing should not be labeled as

"amended." If a drawing figure is to be canceled, the appropriate figure must be

removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several

views of the drawings for consistency. Additional replacement sheets may be necessary

to show the renumbering of the remaining figures. Each drawing sheet submitted after

the filing date of an application must be labeled in the top margin as either

"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held

in abeyance.

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

> Descriptive material can be characterized as either "functional descriptive material" or
> "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data
> structures and computer programs which impart functionality when employed as a computer
> component. (The definition of "data structure" is "a physical or logical relationship among data
> elements, designed to support specific data manipulation functions." The New IEEE Standard
> Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material"
> includes but is not limited to music, literary works, and a compilation or mere arrangement of data.
>
> Both types of "descriptive material" are nonstatutory when claimed as descriptive material per
> se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some
> computer-readable medium, it becomes structurally and functionally interrelated to the medium and will
> be statutory in most cases since use of technology permits the function of the descriptive material to
> be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir.
> 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a
> data structure stored on a computer readable medium that increases computer efficiency) and
> Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data
> structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at
> 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).
>
> In contrast, a claimed computer-readable medium encoded with a computer program is a
> computer element which defines structural and functional interrelationships between the computer
> program and the rest of the computer which permit the computer program's functionality to be realized,
> and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory matter as follows. Claim 14 defines an article of manufacture

embodying functional descriptive material. However, the claim does not define a

computer-readable medium or memory and is thus non-statutory for that reason (i.e.,

"When functional descriptive material is recorded on some computer-readable medium

it becomes structurally and functionally interrelated to the medium and will be statutory

in most cases since use of technology permits the function of descriptive material to be

realized"). That is, the scope of the presently claimed an article of manufacture can

range from paper on which the program is written, to a program simply contemplated

and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kikuchi et al. (US 6,553,180 B1).

Consider claim 1, Kikuchi et al. teach a method of archiving selected segments of recorded audio/visual (A/V) data comprising steps of:

a.   continuously recording A/V data via a first recording device (video camera of Fig. 31);

b.   transmitting said recorded A/V data to a second recording device for interim storage (50, 30, 49, 48, 32, 34A, and 36 of Fig. 40);

c.   marking selected segments of said A/V data in real-time; said selected segments of A/V data marked for storage (Fig. 31 and col. 27, lines 18-24, the divide points of the PGC are the marking points of the A/V data.);

d.   tagging said marked segments of A/V data identifying content of said

marked portions of data (Fig. 31 and col. 27, lines 18-24, the marked segments

of A/V data are tagged as PGC1, PGC2, PGC3, PGC4, and PGC5); and

e.   categorizing said marked portions of transmitted A/V data with respect to

tags associated in said tagging step; said categorized, marked portions of

transmitted A/V data downloaded to and stored in a storage device (Fig. 60, Fig.

61, col. 58, lines 59-col. 59, lines 9, and col. 59, lines 60-col. 60, lines 12).

Consider claim 2, Kikuchi et al. teach a method of archiving selected portions of

recorded A/V data, wherein said first recording device is mounted to at least one of: a

stationary point, a mobile point, or a user (video camera of Fig. 31 is used by a user).

Consider claim 3, Kikuchi et al. teach a method of archiving selected portions of

recorded A/V data, wherein said marking step occurs at either of said first or second

recording devices (Fig. 31 shows the marking step occurs during the playback or the

recording of the video, therefore, the marking step occurs either in the first or second

recording devices).

Consider claim 4, Kikuchi et al. teach a method of archiving selected portions of

recorded A/V data, wherein said marking step is triggered by either of: user input or a

time lapse (Fig. 31 shows that the marking step is triggered by user input).

Consider claim 5, Kikuchi et al. teach a method of archiving selected segments

of recorded A/V data, wherein said A/V data is transmitted from said first recording

device to said second recording device via either of: wired or wireless means (there is a

wire between 42 and 50 (one of the components of the second recording device) of Fig.

40).

Consider claim 6, Kikuchi et al. teach a method of archiving selected segments

of recorded A/V data, wherein said tagging step is implemented at said second

recording device (Fig. 31 shows that the tagging step occurs at the second recording

device during the playback of the video movie).

Consider claim 7, Kikuchi et al. teach A method of archiving selected segments

of recorded A/V data, wherein said second recording device is comprised of at least one

of: a display means, user input means, or a memory module (48, 49, and 57 of Fig. 40).

Consider claim 8, Kikuchi et al. teach a method of archiving selected segments

of recorded A/V data, wherein said user input means allows a user to perform at least

one of: marking said A/V data and tagging said A/V data (Fig. 31 shows that the

marking step is based on user action).

Consider claim 9, Kikuchi et al. teach a method of archiving selected segments

of recorded A/V data, wherein said tag associated with said marked A/V data is

determined by at least one of: a selection from said second recording device or a

creation of a tag via said user input means (Fig. 31 shows that tagging is created when

the user record, pause, and resume recording.).

Consider claim 10, Kikuchi et al. teach a method of archiving selected segments

of recorded A/V data, wherein said marked A/V data is stored in said memory module

(57 of Fig. 40 and col. 32, lines 59-64).

Consider claim 11, Kikuchi et al. teach a method of archiving selected segments of recorded A/V data, wherein said categorization step is performed by said second recording device or via said user input means (Fig. 60 and Fig. 61 show that the categorization step is performed via user input means).

Consider claim 12, Kikuchi et al. teach a method of archiving selected segments of recorded A/V data, wherein said tagged A/V data segments are categorized with respect to said tags associated with said marked A/V data (Fig. 60 and Fig. 61 show that the categorized with respect to the tags associated with the marked A/V data).

Consider claim 13, Kikuchi et al. teach a system for tagging and real-time marking of recorded A/V data comprising:

a. an interface receiving real-time A/V transmissions (44 of Fig. 40);

b. a graphical user interface (GUI) for displaying said real-time A/V transmissions (48 of Fig. 40);

c. a trigger marking said real-time A/V transmissions to be saved (Fig. 43); said real-time A/V transmissions displayed by said GUI (48 of Fig. 40);

d. a tagger associating said marked, real-time A/V transmissions with a tag indicating content information (Fig. 30 and col. 27, lines 11-17, after the making the marker key input, the portion will be tagged as a certain number of PGC as shown in Fig. 30);

e. a memory module for storing said marked and tagged real-time A/V transmissions (57 of Fig. 40).

Consider claim 14, Kikuchi et al. teach an article of manufacture comprising a

computer usable medium having computer readable program code embodied therein

which implements the archiving of archiving selected segments of recorded audio/visual

(A/V) data comprising modules executing:

a. marking of selected segments of said A/V data in real-time (Fig. 31 and col.

27, lines 18-24, the divide points of the PGC are the marking points of the A/V data);

b. tagging said marked segments of A/V data; said tags identifying content of

said marked segments of data (Fig. 31 and col. 27, lines 18-24, the marked segments of

A/V data are tagged as PGC1, PGC2, PGC3, PGC4, and PGC5); and

c. categorizing said tagged segments of marked, transmitted A/V data with

respect to tags associated in said tagging step (Fig. 60, Fig. 61, col. 58, lines 59-col. 59,

lines 9, and col. 59, lines 60-col. 60, lines 12); said categorized, tagged, and marked

transmitted A/V data downloaded to and stored in a storage device for archival (Fig. 40

shows that the A/V data is stored into a disc).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tat Chi Chio whose telephone number is (571) 272-

9563. The examiner can normally be reached on Monday - Thursday 8:30 AM-6:00 PM

EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TCC

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